



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MEMORANDUM OPINION
(Denying Rule 60(b) Motion)

Plaintiff, a Virginia prisoner proceeding *pro se*, brings this § 1983 civil rights action. By Memorandum Opinion and Order entered on September 4, 2009, the Court dismissed the present action because Plaintiff had failed to state a claim upon which relief could be granted. On September 21, 2009, Plaintiff submitted a response to that decision, which the Court considers a motion for relief under Federal Rule of Civil Procedure 60(b). *In re Burnley*, 988 F.2d 1, 2-3 (4th Cir. 1992). The party seeking relief under Rule 60(b) must cross the “initial threshold,” showing “timeliness, a meritorious [claim or] defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances.” *Dowell v. State Farm Fire & Cas. Auto. Ins. Co.*, 993 F.2d 46, 48 (4th Cir. 1993) (quoting *Werner v. Carbo*, 731 F.2d 204, 207 (4th Cir. 1984)). Plaintiff has failed to plead a meritorious claim or identify any exceptional circumstances warranting relief under Federal Rule of Civil Procedure 60(b). Accordingly, the motion for relief under Federal Rule of Civil 60(b) (Docket No. 25) will be DENIED.

An appropriate Order shall issue.

Date: Oct. 21, 2009
Richmond, Virginia

18 /s/
Henry E. Hudson
United States District Judge